

“1. The total number of permitted Class II UIC wells in Florida as of November 4, 2019”

Class II wells are used only to inject fluids associated with oil and natural gas production. EPA – Region 4 has direct implementation authority for Class II wells in Florida. There are currently 65 authorized Class II wells in Florida. As of November 4, 2019, these wells are located in five (5) of Florida’s 67 counties. **Figure 1. Map of Authorized UIC Class II Wells in Florida as of 11/4/2019** displays the locations of the counties in Florida and their count of UIC wells as of November 4, 2019.

Class II wells are divided into three types, Disposal, Enhanced Recovery and Hydrocarbon Storage. More information on types of Class II wells can be found at <https://www.epa.gov/uic/class-ii-oil-and-gas-related-injection-wells>. In Florida as of November 4, 2019, the inventory of authorized Class II wells consists of 17 Disposal Wells, 50 Enhanced Recovery Wells and Zero (0) Hydrocarbon Storage Wells.

Under the EPA implemented program, Class II wells may be authorized through two possible methods, either rule authorization or the issuance of a permit. Class II wells may be authorized by rule under Title 40 of the Code of Federal Regulations (40 CFR) section 144.28. These regulations can potentially cover a well, if it meets the following specific criteria:

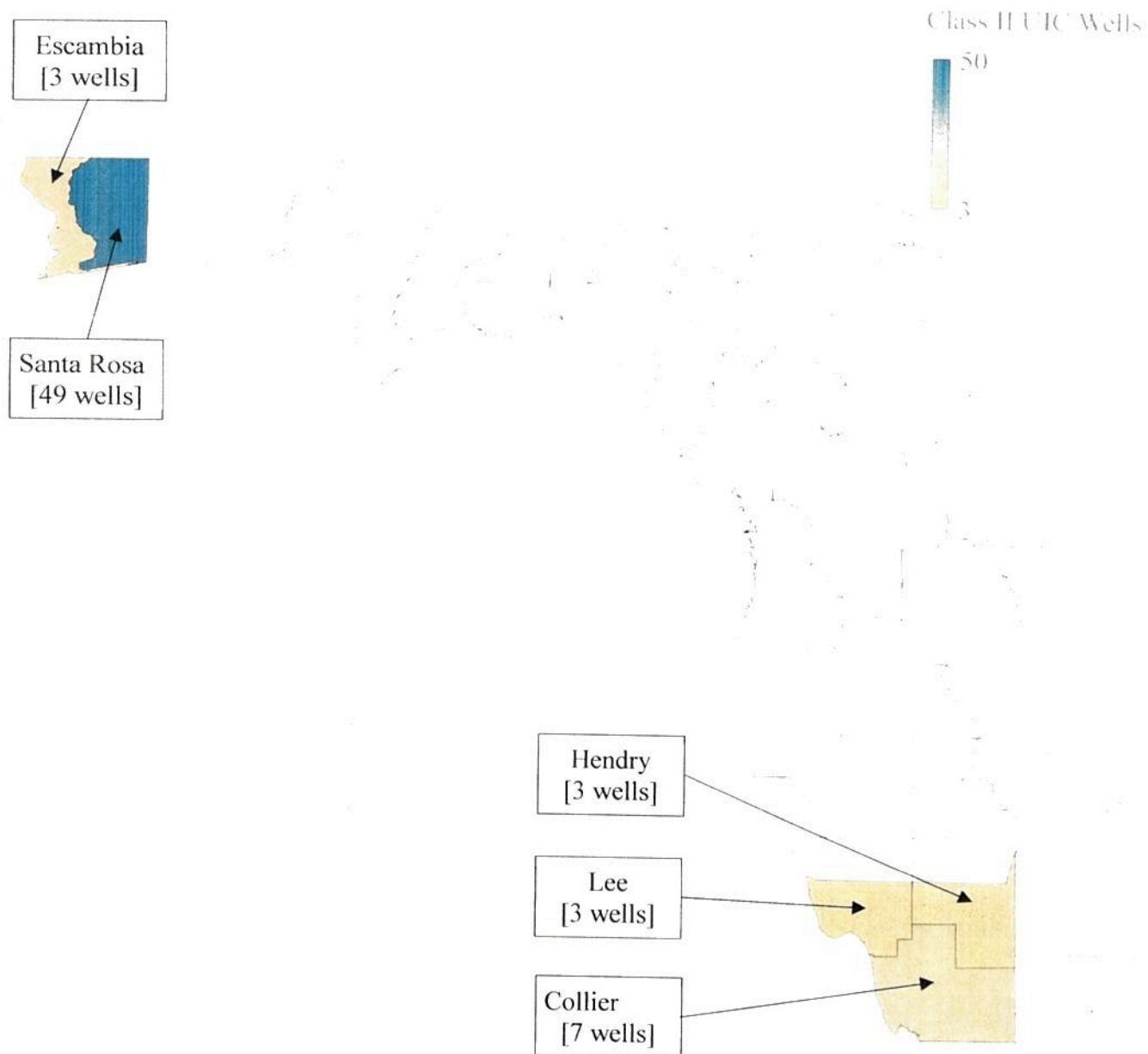
- It is either an Enhanced Recovery or Hydrocarbon Storage well
- The well was in existence as one of the allowable types of injection well on the effective date of the program. For Florida, the effective date is December 30, 1984.
- The well has been found to meet the requirements for inventory, non-endangering construction, non-endangering operation, reporting, and posting of adequate financial responsibility by the operator.

A well that does not meet the requirements above, may only be authorized through the issuance of a permit under the regulations found in 40 CFR §§ 144.36 through 144.55. In Florida as of November 4, 2019, the inventory of authorized Class II wells consists of 31 Rule-Authorized - Enhanced Recovery Wells, 16 Permitted - Disposal Wells and 18 Permitted - Enhanced Recovery Wells. See Table 1 below.

Table 1. Summary of Florida Class II UIC Wells by County, Authorization, and Well Type as of 11/4/2019.

Table 1. Summary of Florida Class II UIC Wells by County, Authorization, and Well Type as of 11/4/2019						
County	Rule Authorized Wells		Permitted Wells			Total
	Enhanced Recovery	Hydrocarbon Storage	Disposal	Enhanced Recovery	Hydrocarbon Storage	
Collier	0	0	7	0	0	7
Escambia	3	0	0	0	0	3
Hendry	0	0	3	0	0	3
Lee	0	0	3	0	0	3
Santa Rosa	28	0	3	18	0	49
Florida (Total)	31	0	16	18	0	65

Figure 1. Map of Authorized UIC Class II Wells in Florida
as of 11/4/2019



“3. Records tabulating or summarizing the number of Federal Inspections conducted by EPA in Florida of Class II UIC wells, by year during Fiscal Year 2010 and each subsequent Fiscal year to FY 2019 (through November 4, 2019)”

EPA Region 4 performed the following inspections (See Table 2 below) of Class II UIC wells in Florida from the start of Fiscal Year 2010 (October 1, 2010) through November 4, 2019.

Table 2. Summary of Florida Class II UIC Wells Inspections by Fiscal Year (FY) and County, as of 11/4/2019								
Fiscal Year	Start Date	End Date	County					Florida (Total)
			Collier	Escambia	Hendry	Lee	Santa Rosa	
FY2010	10/01/09	09/30/10	0	3	0	0	42	45
FY2011	10/01/10	09/30/11	0	0	0	0	0	0
FY2012	10/01/11	09/30/12	7	0	3	3	0	13
FY2013	10/01/12	09/30/13	0	3	0	0	42	45
FY2014	10/01/13	09/30/14	0	0	0	0	0	0
FY2015	10/01/14	09/30/15	0	0	0	0	1	1
FY2016	10/01/15	09/30/16	7	0	2	3	0	12
FY2017	10/01/16	09/30/17	0	0	0	0	0	0
FY2018	10/01/17	09/30/18	0	4	0	0	27	31
FY2019	10/01/18	09/30/19	0	0	0	0	0	0
FY2020	10/01/19	11/04/19	0	0	0	0	0	0
Total	10/01/09	11/04/19	14	10	5	6	112	147



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

SEP 10 2012

CERTIFIED MAIL 7010 1060 0002 1703 0048
RETURN RECEIPT REQUESTED

Dale Hayes
Petro Operating Company, Inc.
15021 Katy Freeway
Suite 400
Houston, Texas 77094

Re: Consent Agreement and Final Order (CA/FO)
Docket No. SDWA-04-2012-1010(b)

Dear Mr. Hayes:

Enclosed is a copy of the Consent Agreement and Final Order (CA/FO) in this matter that has been filed with the Regional Hearing Clerk and served on the parties as required by 40 C.F.R. §22.6. This CA/FO was effective upon the date filed with the Regional Hearing Clerk and you are hereby ordered to comply immediately with the terms of the subject Order.

Thank you for your cooperation in settling this matter. Should you have any questions or concerns, please contact W. Scott Hoskins, Underground Injection Control Enforcement, at (404) 562-9299.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Giattina", written over a horizontal line.

James D. Giattina
Director
Water Protection Division

Enclosure

cc: Regional Hearing Clerk

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4

IN THE MATTER OF

Petro Operating Co., L.P.
15021 Katy Freeway, Suite 400
Houston, Texas 77094

Respondent

Consent Agreement and Final Order

Docket No. SDWA-04-2012-1010(b)

RECEIVED
EPA REGION IV
2012 SEP 10 AM 10:40
HEARING CLERK

STATUTORY AUTHORITY

1. Pursuant to the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits (Consolidated Rules of Practice or Part 22), specifically Subpart I, published at 64 Fed. Reg. 40138 (July 23, 1999) and the delegated authority of the Administrator of the U.S. Environmental Protection Agency (EPA or Complainant) under Section 1423 of the Safe Drinking Water Act (SDWA), 42 U.S.C. § 300h-2, the EPA, as Complainant, hereby enters into the following Consent Agreement and Final Order (CA/FO) with Petro Operating Co., L.P. (Respondent).

2. Section 1450(a)(1) of the SDWA 42 U.S.C. § 300j-9(a)(1) authorizes the Administrator to prescribe such regulations as are necessary or appropriate to carry out her functions under the SDWA. These regulations are found at 40 C.F.R. Parts 124, 144, 146, 147, and 148, and set forth requirements for the Underground Injection Control (UIC) program promulgated under Part C of the SDWA, 42 U.S.C. § 300h, et seq.

3. Injection well owners and operators are required to comply with the UIC program requirements. The UIC program for the Commonwealth of Kentucky, including all Indian lands, is administered by the EPA. See 40 C.F.R. § 147.901(a).

ALLEGATIONS

4. Respondent is a limited liability company organized under the laws of Florida doing business in the State of Florida, with a business address of 15021 Katy Freeway, Suite 400, Houston, Texas 77094.

5. Respondent is a "person" as that term is defined in Section 1401(12) of the SDWA, 42 U.S.C. § 300f(12) and 40 C.F.R. § 144.3.

6. Respondent owns and/or operates the following Class II underground injection well (Subject Well).

<u>EPA ID No.</u>	<u>Permit Number</u>	<u>Well</u>	<u>Status</u>
FLS1130059	FLI0003	BJC SWDS #1-1	Shut in

7. The Subject Well is a "facility" as that term is defined in 40 C.F.R. § 144.3, and is subject to the requirements of the SDWA and the UIC regulations.
8. The Subject Well is permitted in accordance with 40 C.F.R. § 144.31.
9. The SDWA, 42 U.S.C. § 300f, *et seq.*, and 40 C.F.R. § 144.51(a) require the permittee to comply with all conditions of the permit. Noncompliance constitutes a violation of the SDWA and is grounds for an enforcement action.
10. Part II, Section G, Paragraph 1, of the UIC permit, requires a permitted underground injection well to have and maintain mechanical integrity in accordance with 40 C.F.R. § 146.8 until it is plugged. The Subject Well failed a mechanical integrity test on February 25, 2009. To date the mechanical integrity of the well has not been demonstrated in accordance with the requirements of 40 C.F.R. § 146.8.

<u>EPA ID No.</u>	<u>Permit Number</u>	<u>Well</u>	<u>Status</u>	<u>Last MIT</u>
FLS1130059	FLI0003	BJC SWDS #1-1	Shut in	Failed 2/25/09

11. Therefore, Respondent is in violation of 40 C.F.R. § 146.8, the UIC permit and the SDWA for failure to maintain the mechanical the integrity of the permitted Subject Well.
12. On April 17, 2012, Respondent participated in a show cause hearing with representatives of the EPA to discuss his violations of the SDWA and the implementing regulations.

STIPULATIONS AND FINDINGS

13. Respondent admits the jurisdictional allegations set forth above and neither admits nor denies the facts and findings of violation as alleged herein. Respondent waives any right to a hearing and waives any right to appeal a final order in this matter, and consents to the issuance of a final order without further adjudication.
14. Complainant and Respondent have conferred for the purpose of settlement, pursuant to 40 C.F.R. § 22.18, and desire to resolve this matter and settle the violations described herein without resorting to a formal hearing. Therefore without the taking of any evidence or testimony, the making of an argument, or the adjudication of any issue in this matter, and in accordance with 40 C.F.R. § 22.13(b), this CA/FO will simultaneously commence and conclude this matter.

PENALTY AND INJUNCTIVE RELIEF

Based upon the foregoing findings, the parties hereby agree and consent to entry of the following Order:

15. Respondent shall pay a civil penalty of **\$17,275 (seventeen thousand two hundred seventy-five Dollars)**.
16. Within 60 days of receipt of a fully-executed copy of this CA/FO, Respondent shall submit a cashiers or certified check in the amount of **\$17,275 (seventeen thousand two hundred seventy-five Dollars)**. The penalty payment as set forth shall be made payable to the Treasurer, United States of America at the following address:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

Respondent shall note the title and docket number of the case on the penalty payment certified or cashiers check.

17. Respondent shall submit copies of the check to the following persons:

Regional Hearing Clerk
U.S. EPA - Region 4
61 Forsyth Street SW
Atlanta, GA 30303-8960

Fred McManus, Chief
Ground Water and SDWA Enforcement Section
U. S. EPA - Region 4
61 Forsyth Street SW
Atlanta, GA 30303-8960

18. Pursuant to Section 1423(c)(7) of the SDWA, 42 U.S.C. § 300h-2(c)(7), failure by Respondent to pay the penalty assessed by this CA/FO in full by its due date may subject Respondent to a civil action in an appropriate district court to recover the amount assessed (plus costs, attorneys fees and interest at currently prevailing rates from the date the order is effective). In such an action, the validity, amount and appropriateness of the penalty shall not be subject to review. Additionally, pursuant to 40 C.F.R. Part 13 and 31 U.S.C. § 3717 *et seq.*, if EPA does not receive payment of the penalty assessed by this CA/FO in full by its due date, interest shall accrue on the unpaid balance from the due date through date of payment at an annual rate equal to the rate of the current value of funds to the United States Treasury as prescribed and published by the Secretary of the Treasury. If all or part of the payment is overdue, EPA shall assess an administrative fee of \$15 for each subsequent 30 day period. EPA shall assess, on a monthly basis, a 6% per annum penalty on any principal amount not paid within 90 days of the due date.

19. In addition to payment of the penalty described above, Respondent shall perform the following injunctive relief:

- a. Respondent is ordered to successfully demonstrate the mechanical integrity or to properly close, plug, and abandon the following well by October 24, 2012. Mechanical integrity testing or plugging and abandonment must be witnessed by an authorized EPA inspector.

<u>EPA ID No.</u>	<u>Permit Number</u>	<u>Well</u>	<u>Status</u>
FLS1130059	FLI0003	BJC SWDS #1-1	Shut in

20. Respondent agrees to pay stipulated civil penalties for violation of the conditions set forth in Paragraph 19 above as follows. For failure to comply with the condition described in paragraph 19 above, Respondent shall pay a stipulated civil penalty according to the following schedule.

- a. \$300 for any portion of the first 7 calendar days Respondent

is in violation of this Agreement; and

- b. \$200 per day for each day after the first 7 calendar days Respondent is in violation of this Agreement.

21. Stipulated penalties shall become due and payable no later than 30 days after receipt of demand from EPA. Payment shall be in the form of a certified or cashier's check made payable to the Treasurer of the United States of America, and sent to the following address:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

22. A copy of the check shall be sent to the Ground Water & Safe Drinking Water Act Enforcement Section, Safe Drinking Water Branch, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, S.W., Atlanta, GA 30303-8960. Respondent shall state the docket number of this CA/FO on the face of any such check. The stipulated civil penalties set forth above shall be in addition to any other remedies or sanctions which are or may be available to EPA.

23. The names, addresses and telephone numbers of the individuals authorized to receive service relating to the proceeding are listed below.

For Respondent:

Dale Hayes
Petro Operating Company, Inc.
15021 Katy Freeway, Suite 400
Houston, Texas 77094
281-530-0991

For the EPA:

Wilda Cobb, Associate Regional Counsel
U.S. EPA - Region 4
61 Forsyth Street SW
Atlanta, GA 30303-8960
404-562-9530

GENERAL PROVISIONS

24. The provisions of this CA/FO shall be binding upon Respondent, and its officers, directors, agents, servants, employees, and successors or assigns. Notice of this CA/FO shall be given to any successors in interest prior to transfer of the ownership or operational control of the facility.

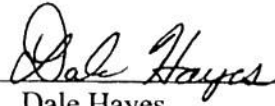
25. This CA/FO does not constitute a waiver, suspension or modification of the requirements of Part C of the SDWA, 42 U.S.C. § 300h, et seq. or any regulations promulgated thereunder. This CA/FO is not and shall not be interpreted to be, a permit for the injection of fluids under Section 1421 of the SDWA, 42 U.S.C. § 300h nor shall it in any way relieve Respondent of any obligation imposed by any permit issued thereunder, or of Respondent's obligation to comply with any provision of the SDWA, its implementing regulations, or any other local, state or federal law. Payment of the penalty agreed to in this CA/FO shall not in any way affect the right of the Agency or the United States to pursue appropriate

injunctive or other equitable relief or criminal sanctions for any other violations of law. Full payment of the penalty and performance of the injunctive relief agreed to in this CA/FO resolves only Respondents liability for federal civil penalties for the violations and facts stipulated herein.

26. For the purposes of state and federal income taxation, Respondent shall not be entitled to and agrees not to attempt to claim a deduction for any penalty payment made pursuant to this CA/FO. Any attempt to deduct any such penalty shall constitute a violation of this CA/FO.
27. If any event beyond the control of Respondent, its successors or assigns, occurs which causes or may cause a delay in the achievement of any requirement of this CA/FO, Respondent shall notify the EPA orally within 4 days of the time it has knowledge of the occurrence of such event. A written report of said event shall be submitted by certified mail to the EPA within 10 days of the date Respondent received knowledge of the event. Said report shall describe the violation or failure, its cause and all attendant circumstances, and the measures taken or to be taken to prevent or minimize any such violation or failure and to comply with the pertinent requirements of this CA/FO as soon as possible, and the timetable by which those measures are proposed to be implemented.
28. The burden of proving that any violation or failure is caused by circumstances beyond the control of and without fault of Respondent and the length of the delay attributable to such circumstances shall rest with Respondent. Financial, economic, or business conditions or changes in same, unanticipated or increased costs or expenses, or problems relating to reasonably foreseeable technological infeasibility associated with the implementation of actions called for by this CA/FO, shall not relieve Respondent of any obligation imposed under the terms of this CA/FO, nor from payment of any penalty set forth in this CA/FO. The EPA will notify Respondent of its determination that certain circumstances are considered to be beyond Respondent's control and the extension of time, if any, for completion of the affected requirements. Respondent shall waive this right to any extension for failure to provide the EPA with written notice as provided herein or for failure to provide adequate proof for the cause of the delay.
29. The parties acknowledge and agree that final approval by the EPA of this CA/FO is subject to 40 C.F.R. § 22.45(c)(4) which sets forth requirements under which a person not a party to this proceeding may petition to set aside a consent agreement and final order on the basis that material evidence was not considered.
30. Each party shall bear its own costs and attorneys fees in connection with this action.
31. This CA/FO shall become effective upon the date that it is filed with the Regional Hearing Clerk.
32. The undersigned representative of Respondent certifies that he or she is fully authorized to enter into the terms and conditions of this Consent Agreement and to execute and legally bind the Party he or she represents to this Agreement.

RESPONDENT

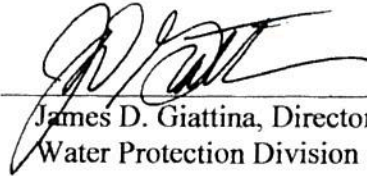
Date: 6/29/2012



Dale Hayes
Petro Operating Co., L.P.

COMPLAINANT

Date: 9/6/12



James D. Giattina, Director
Water Protection Division

FINAL ORDER

Pursuant to the Consolidated Rules of Practice and the delegated authority of the Administrator under the SDWA, the above and foregoing Consent Agreement is hereby approved and incorporated by reference into this Final Order. Respondent is ordered to comply immediately with the terms of the Consent Agreement, which are fully incorporated into this Final Order.

U.S. ENVIRONMENTAL PROTECTION AGENCY

Date: Sept. 10, 2012

Susan B. Schub
Susan Schub
Regional Judicial Officer

PUBLIC NOTICE
U.S. Environmental Protection Agency
Region 4
Water Protection Division
Safe Drinking Water Branch
61 Forsyth Street, SW
Atlanta, Georgia 30303-8960
(404) 562-9372

Public Notice No.: SDWA-04-2012-1010(b)

Date: August 3, 2012

Notice of Proposed Issuance of
Consent Agreement and Final Order

The U.S. Environmental Protection Agency (EPA), Region 4, intends to issue a Consent Agreement and Final Order (CA/FO), Docket No. SDWA-04-2012-1010(b), that assesses an administrative penalty of \$17,275 to Petro Operating Co. L.P. (Respondent), 15021 Katy Freeway, Suite 400, Houston, Texas 77094 under the authority of Section 1423 of the Safe Drinking Water Act, 42 U.S.C. § 300h-2.

The EPA alleges that the Respondent violated 40 C.F.R. § 146.8, its permit, and the SDWA, by failing to timely plug and abandon or demonstrate the mechanical integrity of the underground injection well shown below.

<u>Permit No.</u>	<u>EPA ID No.</u>	<u>Well</u>	<u>County</u>
FL10003	FLS1130059	BJC SWDS #1-1	Santa Rosa

Any person wishing to comment on any aspect of the proposed CA/FO, Docket No. SDWA-04-2012-1010(b), must submit such comments in writing to the Regional Hearing Clerk at U.S. EPA, Atlanta Federal Center, 61 Forsyth Street S.W., Atlanta, GA 30303. Comments may also be submitted via email to bullock.patricia@epa.gov. Comments must be submitted within 30 days of this notice. Please include the Public Notice/Docket No. with any submitted comments.

The commenter must also provide his or her name and complete mailing address. All comments received during the public notice period will be made part of the public record for the CA/FO and will be available for public review. After consideration of all timely written comments, the requirements and policies in the SDWA and appropriate regulations, the EPA will make a final determination regarding the issuance of a CA/FO.

Interested parties may find out more information about this enforcement action by visiting the EPA Region 4 Website at: http://www.epa.gov/region4/water/wpeb/npdes_states.html or by contacting W. Scott Hoskins at hoskins.scott@epa.gov.

Any person who comments will receive a copy of the proposed CA/FO. Within 30 days of receipt of the CA/FO, a commenter may petition the Regional Administrator to set aside the proposed CA/FO on the basis that material evidence was not considered. Copies of the petition shall be served to the parties. Unless a petition is filed, a CA/FO becomes effective 10 days after the close of the comment period.

The public record, including the draft CA/FO and comments received, is available for review and copying at 61 Forsyth Street, S.W., Atlanta, Georgia 30303-8960, between the hours of 8:15 a.m. and 4:30 p.m., Monday through Friday. Copies will be provided at a cost of 20 cents per page.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this day served a true and correct copy of the foregoing Consent Agreement and Final Order, in the Matter of Petro Operating Co. L.P., Docket No. SDWA-04-2012-1010(b), on the parties listed below in the manner indicated:

W. Scott Hoskins

Via the EPA Internal Mail

Wilda Cobb

Via the EPA Internal Mail

Dale Hayes

Via Certified Mail/ Return Receipt
Requested

Petro Operating Co. L.P

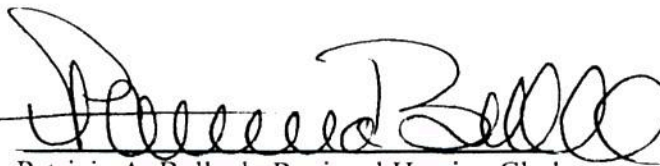
15021 Katy Freeway

Suite 400

Houston, Texas 77094

Date:

9-10-12



Patricia A. Bullock, Regional Hearing Clerk
United States EPA - Region 4
Atlanta Federal Center
61 Forsyth Street, S.W.
Atlanta, GA 30303-8960
(404) 562-9511



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

JUL 30 2013

CERTIFIED MAIL 7010 1060 0002 1703 1175
RETURN RECEIPT REQUESTED

Mr. John Bruynell
President, Newport Energy Corporation
6 Gardenwood Drive
Ashville, North Carolina 28803

Re: Consent Agreement and Final Order Docket No. SDWA-04-2013-1006(b)

Dear Mr. Bruynell:

Enclosed is a copy of the Consent Agreement and Final Order (CA/FO) in this matter that has been filed with the Regional Hearing Clerk and served on the parties as required by 40 C.F.R. §22.6. This CA/FO was effective upon the date signed by the Regional Judicial Officer and you are hereby ordered to comply immediately with the terms of the subject Order. Please make note of the provisions under "PENALTY AND INJUNCTIVE RELIEF" with respect to compliance actions and stipulated penalties.

Thank you for your cooperation in settling this matter. Should you have any questions or concerns please contact Mr. Randy Vaughn, Underground Injection Control Enforcement, at (404) 562-9793.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Giattina".

James D. Giattina
Director

Water Protection Division

Enclosure

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4

RECEIVED
EPA REGION IV

2013 JUL 30 AM 9:48

HEARING CLERK

IN THE MATTER OF

Newport Energy Corporation
Water's Edge Office Center
2963 Gulf to Bay Boulevard, Suite
323
Clearwater, Florida 33759

Consent Agreement and Final Order

Docket No. SDWA-04-2013-1006(b)

Respondent

STATUTORY AUTHORITY

1. Pursuant to the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits (Consolidated Rules of Practice or Part 22), specifically Subpart I, published at 64 Fed. Reg. 40138 (July 23, 1999) and the delegated authority of the Administrator of the U.S. Environmental Protection Agency (EPA or Complainant) under Section 1423 of the Safe Drinking Water Act (SDWA), 42 U.S.C. § 300h-2, the EPA, as Complainant, hereby enters into the following Consent Agreement and Final Order (CA/FO) with Newport Energy Corporation (Respondent).
2. Section 1450(a)(1) of the SDWA, 42 U.S.C. § 300j-9(a)(1), authorizes the Administrator to prescribe such regulations as are necessary or appropriate to carry out her functions under the SDWA. These regulations are found at 40 C.F.R. Parts 124, 144, 146, 147, and 148, and set forth requirements for the Underground Injection Control (UIC) program promulgated under Part C of the SDWA, 42 U.S.C. § 300h, et seq.
3. Injection well owners and operators are required to comply with the UIC program requirements. The Class II UIC program for the State of Florida, including all Indian lands, is administered by the EPA. See 40 C.F.R. § 147.901(a).

ALLEGATIONS

4. Respondent is a corporation organized under the laws of Florida and is doing business in the State of Florida, with a business address of Water's Edge Office Center, 2963 Gulf to Bay Boulevard, Suite 323, Clearwater, Florida 33759.

5. Respondent is the owner and/or operator of the Class II underground injection well that is subject to this Order (Subject Well).

<u>EPA ID No.</u>	<u>EPA Permit No.</u>	<u>Well</u>	<u>Status</u>
FLS0510013	FYI0007	Red Cattle 27-3	Active

6. The Subject Well is a "facility" as that term is defined in 40 C.F.R. § 144.3.

7. The SDWA, 42 U.S.C. § 300f, et seq., and 40 C.F.R. § 144.51(a) require the permittee to comply with all conditions of the permit.

8. Part II, Section H, Paragraph 1, of the permit, requires that the permittee shall maintain continuous compliance with the requirement to maintain financial responsibility (FR) and resources to close, plug, and abandon the underground injection well, in accordance with 40 C.F.R. § 144.52(a)(7).

9. There was no evidence in the EPA's records that indicated Respondent had provided FR for the Subject Well. Therefore, in the April 3, 2013, Notice of Violation the EPA sent to Respondent failure to maintain FR was alleged as a violation of the UIC permit, the SDWA and the implementing regulations.

10. On April 26, 2013, Respondent participated in a show cause hearing with representatives of the EPA to discuss the alleged violations of the SDWA and the implementing regulations.

11. During the Show Cause the Respondent was able to demonstrate that there was FR for the Subject Well. The FR was in the Respondent's partner's name and did provide for the closure of the Subject Well as required by 40 C.F.R. § 144.52(a)(7).

12. Therefore, no penalty was assessed for the violation of the UIC permit and the SDWA for failure to maintain FR for the Subject Well.

13. Part I, Section C, Paragraph 3, of the UIC permits, requires the permittee to conduct injection fluid analyses at least once every 12 months and whenever changes are made to the injection fluid, in accordance with 40 C.F.R. § 146.23(b)(1). Part I, Section D, Paragraph 2, requires the results of these injection fluid analyses to be submitted annually to the EPA, beginning within 12 months of the permit effective date, in accordance with 40 C.F.R. § 146.23(c).

14. The information contained in the EPA records shows that that the Respondent failed to submit annual fluid analysis results for the Subject Well for the years 2011 and 2012.

15. Therefore, the Respondent is in violation of the UIC permit and the SDWA for failure to timely submit the annual fluid analysis results for the Subject Well.

STIPULATIONS AND FINDINGS

16. Respondent admits the jurisdictional allegations and facts and findings of violations as alleged herein. Respondent waives any right to a hearing and waives any right to appeal a final order in this matter, and consents to the issuance of a final order without further adjudication.

17. Complainant and Respondent have conferred for the purpose of settlement, pursuant to 40 C.F.R. § 22.18 and desire to resolve this matter and settle the violations described herein without resorting to a formal hearing. Therefore, without the taking of any evidence or testimony, the making of an argument or the adjudication of any issue in this matter and in accordance with 40 C.F.R. § 22.13(b), this CA/FO will simultaneously commence and conclude this matter.

PENALTY AND INJUNCTIVE RELIEF

Based upon the foregoing findings, the parties hereby agree and consent to entry of the following Order:

18. Respondent shall pay a civil penalty of \$3,000 (three thousand dollars), for failure to submit injection fluid analyses for two years, in accordance with the terms set forth below.

19. Within 60 days of receipt of a fully-executed copy of this CA/FO, Respondent shall submit a cashiers or certified check in the amount of \$3,000 (three thousand dollars). The penalty payment as set forth shall be made payable to the Treasurer, United States of America at the following address:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

Respondent shall note the title and docket number of the case on the penalty payment certified or cashiers check.

20. Respondent shall submit copies of the check to the following persons:

Regional Hearing Clerk
U.S. EPA - Region 4
61 Forsyth Street SW
Atlanta, GA 30303-8960

Fred McManus, Chief
Ground Water and UIC Section
U. S. EPA - Region 4
61 Forsyth Street SW
Atlanta, GA 30303-8960

21. Pursuant to Section 1423(2)(c)(7) of the SDWA, 42 U.S.C. § 300h-2(c)(7), failure by Respondent to pay the penalty assessed by this CA/FO in full by its due date may subject Respondent to a civil action in an appropriate district court to recover the amount assessed (plus costs, attorneys fees, and interest at currently prevailing rates from the date the order is effective). In such an action, the validity, amount and appropriateness of the penalty shall not be subject to review. Additionally, pursuant to 40 C.F.R. Part 13 and 31 U.S.C. § 3717 et seq., if the EPA does not receive payment of the penalty assessed by this CA/FO in full by its due date, interest shall accrue on the unpaid balance from the due date through date of payment at an annual rate equal to the rate of the current value of funds to the United States Treasury as prescribed and published by the Secretary of the Treasury. If all or part of the payment is overdue, the EPA shall assess an administrative fee of \$15 for each subsequent 30 day period. The EPA shall assess, on a monthly basis, a 6% per annum penalty on any principal amount not paid within 90 days of the due date.

22. The names, addresses and telephone numbers of the individuals authorized to receive service relating to the proceeding are listed below.

For Respondent:

Mr. John Bruynell
President, Newport Energy Corporation
6 Gardenwood Drive
Ashville, North Carolina 28803
828-277-5448

For the EPA:

Michele Wetherington, Associate Regional Counsel
U.S. EPA - Region 4
61 Forsyth Street SW
Atlanta, GA 30303-8960
404-562-9613

GENERAL PROVISIONS

23. The provisions of this CA/FO shall be binding upon Respondent and its officers, directors, agents, servants, employees and successors or assigns. Notice of this CA/FO shall be given to any successors in interest prior to transfer of the ownership or operational control of the facility.

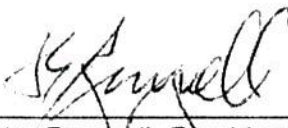
24. This CA/FO does not constitute a waiver, suspension or modification of the requirements of Part C of the SDWA, 42 U.S.C. § 300h, et seq. or any regulations promulgated there under. This CA/FO is not and shall not be interpreted to be, a permit for the injection of fluids under Section 1421 of the SDWA, 42 U.S.C. § 300h, nor shall it in any way relieve Respondent of any obligation imposed by any permit issued there under, or of Respondent's obligation to comply with any provision of the SDWA, its implementing regulations, or any other local, state or federal law. Payment of the penalty agreed to in this CA/FO shall not in any way affect the right of the Agency or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any other violations of law. Full payment of the penalty and performance of the injunctive relief agreed to in this CA/FO resolves only Respondents liability for federal civil penalties for the violations and facts stipulated herein.

25. If any event beyond the control of Respondent, its successors or assigns, occurs which causes or may cause a delay in the achievement of any requirement of this CA/FO, Respondent shall notify the EPA orally within 4 days of the time it has knowledge of the occurrence of such event. A written report of said event shall be submitted by certified mail to the EPA within 10 days of the date Respondent received knowledge of the event. Said report shall describe the violation or failure, its cause and all attendant circumstances, and the measures taken or to be taken to prevent or minimize any such violation or failure and to comply with the pertinent requirements of this CA/FO as soon as possible, and the timetable by which those measures are proposed to be implemented.
26. The burden of proving that any violation or failure is caused by circumstances beyond the control of and without fault of Respondent and the length of the delay attributable to such circumstances shall rest with Respondent. Financial, economic, or business conditions or changes in same, unanticipated or increased costs or expenses, or problems relating to reasonably foreseeable technological infeasibility associated with the implementation of actions called for by this CA/FO, shall not relieve Respondent of any obligation imposed under the terms of this CA/FO, nor from payment of any penalty set forth in this CA/FO. The EPA will notify Respondent of its determination that certain circumstances are considered to be beyond Respondent's control and the extension of time, if any, for completion of the affected requirements. Respondent shall waive this right to any extension for failure to provide the EPA with written notice as provided herein or for failure to provide adequate proof for the cause of the delay.
27. For the purposes of state and federal income taxation, Respondent shall not be entitled to and agrees not to attempt to claim a deduction for any penalty payment made pursuant to this CA/FO. Any attempt to deduct any such penalty shall constitute a violation of this CA/FO.
28. The parties acknowledge and agree that final approval by the EPA of this CA/FO is subject to 40 C.F.R. § 22.45(c)(4) which sets forth requirements under which a person not a party to this proceeding may petition to set aside a consent agreement and final order on the basis that material evidence was not considered.
29. Each party shall bear its own costs and attorneys fees in connection with this action.
30. This CA/FO shall become effective upon the date that it is filed with the Regional Hearing Clerk.
31. The undersigned representative of Respondent certifies that he or she is fully authorized to enter into the terms and conditions of this Consent Agreement and to execute and legally bind the Party he or she represents to this Agreement.

RESPONDENT

WENTHROP ENERGY CORPORATION


Date May 30, 2013



John Bruynell, President

COMPLAINANT

Date 7/23/13



James D. Giattina, Director
Water Protection Division

FINAL ORDER

Pursuant to the Consolidated Rules of Practice and the delegated authority of the Administrator under the SDWA, the above and foregoing Consent Agreement is hereby approved and incorporated by reference into this Final Order. Respondent is ordered to comply immediately with the terms of the Consent Agreement, which are fully incorporated into this Final Order.

U.S. ENVIRONMENTAL PROTECTION AGENCY

Date: July 29 2013

Susan S. Schub
Susan Schub
Regional Judicial Officer

Consent Agreement and Final Order, in the Matter of Newport Energy Corporation,
Docket No. SDWA-04-2013-1006(b), on the parties listed below in the manner indicated:

Randy Vaughn

Via EPA Internal Mail

Wilda Cobb

Via EPA Internal Mail

John Bruynell
6 Gardenwood Drive
Asheville, North Carolina 28803

Via Certified Mail/ Return Receipt Requested

Date:

7-30-13

A handwritten signature in black ink, appearing to read 'Patricia A. Bullock', written over a horizontal line.

Patricia A. Bullock, Regional Hearing Clerk
United States EPA - Region 4
Atlanta Federal Center
61 Forsyth Street, S.W.
Atlanta, GA 30303-8960
(404) 562-9511